

Tax Information Bulletin

STATE BOARD OF EQUALIZATION

ISSUED QUARTERLY
September 1997

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Contents

1. Annual Taxpayers' Bill of Rights Hearings
 2. Tax Rates Will Change in San Benito County and Tulare County
 3. New Permit Numbers for Central and Northern California Businesses
 4. Common Errors Discovered During Audits: Sales to Government
 5. Deductions for Bad Debt Losses
 6. Grocers Using Electronic Scanning
 7. Does Tax Apply to Labor Charges for Gift Wrapping?
 8. Reminder: Special Reporting Rules May Apply to Goods Delivered from Out of State
 9. Inactive Seller's Permits
 10. How To Verify a Seller's Permit
 11. Has Your Seller's Permit Been Revoked?
 12. Have You Noticed a Change in Your Forms?
 13. Clarification: New Tax Reporting Option for Manufacturer-Lessors
 14. New or Revised Reference Material
 15. Field Office Telephone Numbers
- ◆ For Assistance (page 8)

1. Annual Taxpayers' Bill of Rights Hearings

Note—corrected date for Culver City

As reported in June, this year's Taxpayers' Bill of Rights Hearings will be held in Culver City and Sacramento. At these public hearings, taxpayers are given the opportunity to present recommendations regarding legislation, the quality of agency services, and other topics related to the Board's administration of its tax programs.

The hearing dates are as follows:

Culver City. In June we erroneously reported the hearing would be held Thursday, October 23, 1997. The correct date is **Tuesday, October 28**. The meeting will begin at 1:30 P.M. in the Board of Equalization's district office, 5901 Green Valley Circle, Suite 200.

Sacramento. Wednesday, November 19, 1997, at 1:30 P.M., in the Board Room located on the first floor of Capitol Square, 450 N Street, Sacramento.

Although you do not need to be scheduled in advance to speak at the hearing, it would help us prepare if you contacted us before the hearing to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in advance and then summarize it in your oral presentation.

To notify us of a topic you wish to discuss or to send written material in advance, please contact:

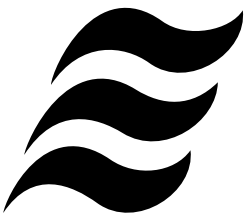
Taxpayers' Rights Advocate, MIC:70
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0070
Telephone: 1- 888-324-2798
Fax: 916-323-3319

2. Tax Rates Will Change in San Benito County and Tulare County

Effective January 1, 1998, the sales and use tax rate in San Benito County will decrease from 8.25% to 7.75%, and the rate in Tulare County will decrease from 7.75% to 7.25%.

San Benito County

The San Benito County General Fund Augmentation (SBTU) transactions (sales)



and use tax will expire at midnight on December 31, 1997. With the expiration of the tax, the overall sales and use tax rate in the county will decrease to 7.75% on January 1, 1998. The new rate includes the statewide 7.25% rate and 0.50% for the San Benito County Council of Governments tax district, which remains in effect.

If you collect SBTU sales tax reimbursement or use tax after December 31, 1997, you must return the amount of tax collected to your customers or forward it to the state.

Taxable contracts entered into on or after January 1, 1998, including fixed-price contracts, will not be subject to the expiring SBTU tax.

Tulare County

The Tulare County Transactions and Use Tax (TCTU), imposed on October 1, 1995, will also expire at midnight on December 31, 1997. With the expiration of the tax, the overall sales and use tax rate in the county will return to 7.25% on January 1, 1998.

If you collect TCTU sales tax reimbursement or use tax after December 31, 1997, you must return the amount of tax collected to your customers or forward it to the state.

Taxable contracts entered into on or after January 1, 1998, including fixed-price contracts, will not be subject to the expiring TCTU tax.

3. New Permit Numbers for Central and Northern California Businesses

Some sellers in central and northern California have received, or will receive this year, a new seller's permit number. As the result of office consolidations, some accounts are being moved to different district offices, and the permit number must be updated to reflect the change.

Example

The second set of letters in a seller's permit number indicates which office maintains an account. An account in Colusa County whose district office is the Sacramento District has KHD as part of its number—for example, SR KHD 10-100000. Once that account is transferred to the Santa Rosa District, its permit number will be changed to SR JHF 10-100000, with JHF representing the Santa Rosa District.

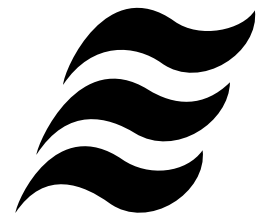
If you see a change in your permit number (it is printed at the top of your sales and use tax return), you should note the change for your records and remember to use your new number when supplying information to us or to another seller (for example, when making purchases for resale).

As you can see, the change is very minor. You can continue to display your existing permit. A new copy of your permit will not be issued solely as the result of this change.

4. Common Errors Discovered During Audits: Sales to Government

As a retailer, you may be aware that sales to the U.S. government are not subject to sales tax. However, you may not be aware that sales to the State of California and local government entities in the state, such as counties, cities, water districts, schools, and so forth, are generally taxable.

Under the Sales and Use Tax Law, you are required to pay tax on your sales of tangible personal property unless a statutory exemption or exclusion exists. Consequently, it is important to understand whether tax applies. If a sale is taxable and you do not report and pay the tax, you will



be required to pay the overdue tax plus applicable interest and penalty charges.

Sales to the U.S. Government

Examples of exempt sales to the federal government include sales to the military, federal credit unions, federal reserve banks, the American Red Cross and other instrumentalities of the federal government, and certain sales to Medicare (Plan A). If you claim an exempt sale to the U.S. government, you must obtain from the purchaser, and retain, a government purchase order or a government remittance advice to support your claim. See Regulation 1614, *Sales to the United States Government and Its Instrumentalities*, section (g).

Sales to U.S. government supply contractors. Such sales are subject to tax unless the government supply contracts contain the appropriate title clause that passes title to the tangible personal property to the U.S. government prior to the contractor's use in the performance of the contract. If a contractor requests that you treat his or her purchase as nontaxable, you must obtain and retain the appropriate documentation required under Regulation 1668, *Resale Certificates*.

Please note: U.S. government supply contractors do not include construction contractors fulfilling contracts to improve real property for the federal government. Generally, you should not accept a resale certificate from a government contractor, as they are considered consumers, rather than sellers, of materials and fixtures used in the performance of their construction contract.

Sales to purchasers who are reimbursed by the U.S. government. Such sales are generally subject to sales tax, unless the conditions

discussed previously apply. This includes sales to nonprofit organizations that are funded, but not owned, by the federal government. For example, sales of items to persons insured under Part B of the Medicare Act are subject to tax even though the person assigns the claim for reimbursement to you (the seller) and you file the claim and are paid by a carrier administering Medicare claims under contract with the U.S. government.

Sales to persons reselling property to the U.S. government. Such sales are not sales to the U.S. government. They are sales for resale and you should obtain a resale certificate from the purchaser, as required by Regulation 1668.

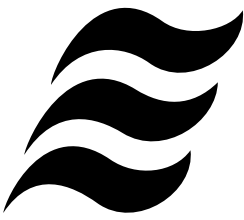
Sales to State and Local Governments

Sales to the State of California, cities, and local governments are generally taxable. However, many retailers erroneously consider their sales to state universities, community colleges, city and county libraries, and school districts as exempt sales to the government. These governmental entities are not exempt from the sales tax. Unless a specific exemption applies to your individual sale, your sales to these agencies are taxable.

5. Deductions for Bad Debt Losses

If you report a taxable sale and subsequently find that you cannot collect payment for the sale, you can recover your tax payment to the Board by deducting the sale on a later tax return, as explained below.

In general, you can claim deductions for taxable sales that are considered worthless according to generally accepted accounting principles or uncollectible accounts and bad checks written off for income tax purposes.



You should claim the bad debt deduction on the tax return filed for the period in which the amount was found worthless and written off. If you do not deduct the debt on the proper return, you cannot deduct it on a subsequent tax return. Instead, you must file a claim for refund for the amount of tax overpaid (generally you must file the claim within three years from the date in which you could have properly claimed the deduction on your tax return).

You can deduct only the uncollected amount on which tax was actually paid to the Board. For example, if you sold a taxable item for \$500 and recovered \$300 from the sale, only the \$200 unrecoverable balance could be deducted as a bad debt.

Sales that are nontaxable cannot be deducted as bad debt losses on your sales and use tax return. For example, you cannot deduct sales for resale or installation labor sales because these sales are not subject to tax. In addition, you cannot deduct expenses incurred in an attempt to enforce the collection of bad debts.

To support the bad debt deduction, you must keep complete records showing the

- Date of the original sale
- Name and address of purchaser
- Amount the purchaser contracted to pay
- Amount on which you, as the retailer, paid tax
- All payments or other credits applied to the purchaser's account

Of course, if at a later point you receive payment on the debt, you must report it on the sales and use tax return for the period in which payment was received.

For more information, please request a copy of Regulation 1642, *Bad Debts*.

6. Grocers Using Electronic Scanning

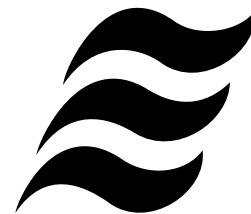
Among the methods used by grocers to determine their sales tax liability, electronic scanning has proven to be one of the more popular methods. As explained below, use of the method must be approved by the Board and certain record keeping requirements must be met.

“Electronic scanning” refers to the compilation and use of data derived from the scanning of products imprinted with the Universal Product Code (UPC). This method has grown in popularity because it makes it easier to record taxable and nontaxable sales, sales tax, and other data. It also automates much of the decision making related to the application of tax to sales.

As provided in Regulation 1602.5, *Reporting Methods for Grocers*, if you are contemplating the use of electronic scanning systems for sales tax reporting purposes, you are required to notify the Board of your intentions and submit a general outline of the proposed procedures for review and approval prior to adopting the method for sales tax reporting purposes.

In addition to receiving approval for the use of electronic scanning, you must retain sufficient records to provide an audit trail from the source of entry to the summary records. These records must be retained for a period of four (4) years and should include:

- *Master listings* containing descriptions of all products sold, both taxable and nontaxable, including such information as UPC, tax status, identifying description, and so forth.
- *Product coding reports* containing products added or deleted or recoded since the previous report. A minimum of one



report for each return reporting period must be retained.

- *Product movement reports* or inventory tracking reports must be prepared and retained for the same periods as the product coding reports.

You must also prepare and retain a general outline of your electronic scanning reporting method, including the type and form of records and reports generated, the personnel responsible for maintaining the system and how such things as food stamps, manufacturer's coupons, bottle deposits, overrings are handled.

For More Information. Contact the district office that handles your account. You should also contact your district office if you are currently using an electronic scanning system and did not receive prior approval for its use.

7. Does Tax Apply to Labor Charges for Gift Wrapping?

With the holiday season and colorful wrapped packages only a few months away, it is important that businesses understand the application of sales tax to gift wrapping charges.

Whether you are solely in the business of wrapping gifts or offer gift wrapping as a service to your customers when they purchase your products, sales tax must be reported for the entire gift wrapping charge, *including* your charges for labor and materials. It does not matter whether the gift wrapping is done by you, your employees, or by another party, the entire amount you charge your customer remains subject to tax. This is true even if you are only in the business of wrapping gifts, and do not sell the gift items you wrap.

However, tax does not apply to charges for gift wrapping exempt food products sold by the person who does the gift wrapping, unless the value of the gift wrapping exceeds the value of the food products. If you are not the person who originally sold the exempt food product, tax applies to your entire charge, even if the value of the food product is less than the value of the gift wrapping.

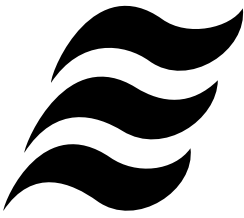
Since your charges for gift wrapping, including labor and material, are generally taxable, you may purchase wrapping material (such as paper, ribbon, tape, and so forth) for resale from your suppliers.

8. Reminder: Special Reporting Rules May Apply to Goods Delivered from Out of State

The following information does not apply to out-of-state retailers who are voluntarily registered to collect and report California use tax. These retailers may continue to allocate the 1% local use tax on Schedule B.—Editor

The method for allocating the 1% local use tax for certain sales and purchases changed July 1, 1996. The change applies only to individual sales or purchases of \$500,000 or more when the goods are shipped from out-of-state inventories. You may be affected by this change if (1) you are a retailer delivering goods to California customers from inventories located outside California or (2) you are a purchaser responsible for reporting the use tax on purchases delivered from out-of-state inventories, for use in California.

Allocation Procedure. When your sales or purchases are subject to the 1% local use tax and are delivered from out-of-state inventories, you are now required to allocate the 1% local use tax to the city or unincorporated county area where the first functional use of the property will occur.



(Functional use means the use for which the property is designed or intended.) You may no longer allocate the 1% local use tax due on sales or purchases of \$500,000 or more based on a general countywide designation. Instead, you must make your allocations for such sales or purchases on Schedule F, *Detailed Allocation of 1% Uniform Sales and Use Tax*. If you require a Schedule F and one is not provided with your return, please contact your local Board office.

For individual sales or purchases of less than \$500,000, you may continue to allocate the 1% local use tax as you have in the past.

For more information. Contact the Local Revenue Allocation Section at 916-324-3000 or the Customer and Taxpayer Service Division at 1-800-400-7115.

9. Inactive Seller's Permits

If you are no longer actively engaged in or conducting business as a seller in California, you must return your permit to the Board for cancellation.

You can return the permit to a Board office or Board representative, giving an oral or written statement indicating that the permit should be cancelled because you are no longer engaged in business. Although you must cancel the permit, you are not required to return the actual document if it has been lost or destroyed, or is unavailable for some other acceptable reason.

It is especially important that you notify the Board and cancel your permit if you transfer your business to another owner. If you do not, you may be held liable for taxes, interest, and penalties incurred by the person making use of your permit.

10. How To Verify a Seller's Permit

When accepting resale certificates, a retailer may question whether the permit listed on the certificate is current. To help ensure that a seller's permit is valid, the Board has established a telephone verification service within our Information Center. The service is available Monday through Friday, except holidays, from 8:00 a.m. to 5:00 p.m.

When you call, you will be asked to provide the number of the permit to be verified and the name and business address of the purchaser. To accommodate as many callers as possible, no more than three permit numbers may be verified at one time. Additional information cannot be given.

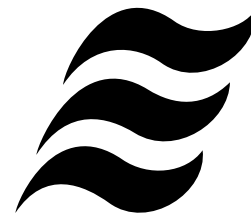
See "For Assistance" on page 8 for information on how to contact the Center.

11. Has Your Seller's Permit Been Revoked?

The California Sales and Use Tax Law requires that every person engaged in business as a seller of tangible personal property in California obtain a permit and file sales tax returns. However, a seller's permit may be revoked for reasons such as failure to file sales tax returns, failure to pay tax due, failure to post the required security deposit, failure to satisfy an outstanding balance, failure to keep or make available required records, or failure to surrender a permit for cancellation when not actively engaged in business as a seller.

If your permit has been revoked, you can have it reinstated if you

- Satisfy or remove the cause of revocation, such as filing and paying delinquent tax returns, and



- Pay a \$50 reinstatement fee. Consolidated accounts require a \$50 reinstatement fee for each selling location. Payment must be cash, money order, or certified funds.

What happens if I continue to operate without a permit?

The Revenue and Taxation Code provides that a person (including corporate officers) who engages in a business as a seller in this state without a permit, or after a permit has been suspended or revoked, is guilty of a misdemeanor, punishable by a fine of up to \$5,000 and/or one year in jail.

12. Have You Noticed a Change in Your Forms?

Occasionally we receive calls from taxpayers who question whether they have received the correct form. The form may be printed in a different color or no longer include a carbon copy.

If the number or title of the form has not changed, you most likely have the correct form to use. We have switched the printing of our forms to new laser equipment, which has streamlined production and will result in significant cost savings. With this change, other changes have occurred, such as the use of different colors (white is more frequently used) and the absence of carbon copies.

13. Clarification: New Tax Reporting Option for Manufacturer-Lessors

In the June 1997 *Tax Information Bulletin*, we advised readers that effective January 1, 1997, manufacturers that lease manufacturing equipment could elect to report tax based on the "cost price" of the equipment, rather than on rental receipts, provided the lease met four specific conditions. In explaining one of

these conditions, we incorrectly stated that:

The property must be leased to a qualified person, as defined in Revenue and Taxation Code 6377 (the lessee must have a manufacturer's exemption certificate issued by the Board of Equalization).

Although the property must be leased to a qualified person, it is not necessary for that person to submit a manufacturer's exemption certificate. Moreover, we should have stated that the property must be leased to a qualified person, as defined in Section 17053.49 of the Personal Income Tax Law and Section 23649 of the Bank and Corporation Tax Law.

We apologize for any inconvenience our error may have caused and recommend that you note the appropriate change on your copy of the June article.

14. New or Revised Reference Material

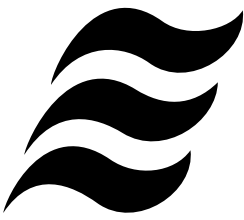
If you would like to obtain a copy of any of the following reference material, please call the Information Center (see page 8).

Sales and Use Tax Regulations

- 1610 Vehicles, Vessels, and Aircraft (effective May 3, 1997)
- 1703 Interest and Penalties (effective June 18, 1997)

Sales and Use Tax Publications

- 61 Sales and Use Tax: Exemptions and Exclusions—revised June 1997
- 70 The California Taxpayers' Bill of Rights—revised June 1997
- 72 Summary of Statutory and Constitutional Authorities—revised February 1997
- 73 Your California Seller's Permit—revised April 1997



15. Field Office Telephone Numbers

If you have a general tax question, please call the Information Center listed on the right. If you have a question regarding your account, call the office that handles your account. Some calls to field offices are automatically transferred to the Information Center.

City	Area Code	Number
Bakersfield	805	395-2880
City of Industry	562	908-5280
Concord	510	687-6962
Culver City	310	342-1000
El Centro	760	352-3431
Eureka	707	445-6500
Fresno	209	248-4219
Laguna Hills	714	461-5711
Norwalk	562	466-1694
Oakland	510	286-0347
Rancho Mirage	760	346-8096
Redding	916	224-4729
Riverside	909	680-6400
Sacramento	916	255-3350
Salinas	408	443-3008
San Diego	619	525-4526
San Francisco	415	396-9800
San Jose	408	277-1231
San Marcos	760	744-1330
Santa Ana	714	558-4059
Santa Rosa	707	576-2100
Stockton	209	948-7720
Suisun City	707	428-2041
Torrance	310	516-4300
Van Nuys	818	904-2300
Ventura	805	677-2700

Offices for Out-of-State Accounts

Chicago, IL	312	201-5300
Houston, TX	281	531-3450
New York, NY	212	697-4680
Sacramento, CA	916	322-2010

For Assistance

Information Center. Call 24 hours a day to use our automated services, including our fax-back service. To speak to a representative, call between 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding holidays.

1-800-400-7115

For telephone devices for the deaf:

1-800-735-2929 (TDD phone)

1-800-735-2922 (voice phone)

Internet. Visit us at <http://www.boe.ca.gov> for information on sales and use tax rates by county, publications, district office telephone numbers, public meetings, and so forth.

Taxpayers' Rights Advocate. If you need help with problems you have been unable to resolve at other levels, please call the Advocate's office at 1-888-324-2798.

Tax Evasion Hotline. To report suspected tax evasion, call us toll-free at 1-888-334-3300.

Legislative Bills. Write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. The Bill Room does not provide copies of Board forms or publications.